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A.—The Government have called for a report from the District Magistrate.

* Mr. A. Ranganatha Mudaliyar :—"May I know what are the rules which guide the Government in declaring certain classes as criminal tribes?"

The hon. Khan Bahadur Sir Mahomed Usman Sahib Bahadur :—"Notice, Sir."

[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

III

ELECTION OF A MEMBER TO THE SENATE OF THE ANDHRA UNIVERSITY.

* The hon. the President :—"I have to announce that Mr. B. Ramachandra Reddi has been declared duly elected to the Senate of the Andhra University by the non-official members of the Madras Legislative Council resident within the University area." 11-15 a.m.

IV

BILLS.

(1) THE MALABAR TENANCY BILL.

The Council then took up the consideration of the part of the Malabar Tenancy Bill returned by His Excellency the Governor.

* The hon. the President :—"The question is that in clause 13, sub-clause (1), the proviso be omitted."

* Mr. E. Sankaran Unni :—"Mr President, I rise to a point of order. This Bill had been returned once before to this Council under section 81-A of the Government of India Act. Certain amendments were also sent with a message. The House considered those amendments and to one of the amendments was added a proviso. The Bill was afterwards passed by the House as amended and sent back. On page 235 of the Council Proceedings it will be found 'the question is that the Bill as amended be passed into law', and this motion was adopted and the Bill was passed into law. My position is this: that the Bill having once been returned to this Council under the provisions of section 81-A of the Government of India Act, the Governor has exhausted his powers of returning and consequently the House also has exhausted its powers of reconsideration by necessary implication. I hope the House will pardon me for reading section 81-A of the Government of India Act, which runs thus :—

'Where a Bill has been passed by a local Legislative Council, the Governor, Lieutenant-Governor or Chief Commissioner may instead of declaring that he assents to or withholds his assent from the Bill return the Bill to the Council for reconsideration either in whole or in part together with any amendment which he may recommend . . .'
and so on and so forth.

"The question of reservation does not arise. The only question is, on the wording of the section is the Governor entitled to return the Bill a second time and are we entitled to consider it a second time? My chief objection is that it will lead to a see-saw arrangement between the Governor and this Council if every time it is returned the Council were to reconsider and pass amendments of its own, the Bill will have to come back again and again. If the interpretation that is sought to be placed on the section is accepted, it will result in the Governor being enabled to return the Bill endlessly and ceaselessly. It is one of the cardinal principles of interpretation of

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statutes that they should not be interpreted in a way which would make their provisions unreasonable and reduce them to an absurdity, and further, they should be interpreted in such a way as would not lead to an abuse of power. If this section is interpreted in the way adopted by the Governor, it will really be an abuse of power."

* The hon. the PRESIDENT :—" Does not the hon. Member concede that section 13 as passed by this Council with the proviso has gone to the Governor for the first time on the second occasion ? "

* Mr. E. SANKARAN UNNI :—" My answer is that the proviso was also there, the first time. The question that was involved in that amendment was whether there should be security for all cases. That was the question. There the Governor considered that security should exist for all cases and the House considered that security should exist only in a few cases. The present question was part of the previous question."

* The hon. the PRESIDENT :—" Is it not a case that the opinion of the Council that no security was required in certain cases was before the Governor for the second time or for the first time ? "

* Mr. E. SANKARAN UNNI :—" There was before the Governor the opinion of the Council that security should not be taken in all cases. This case was a necessary part of the other amendment. If the present amendment was the only amendment before the Governor, then this sort of question from the Chair may be put to me. But since the whole question whether security should be taken in all cases was before the Governor the smaller question was included in it. This proviso said that in certain cases there should be security. By necessary implication and by logical reasoning, the original amendment included this also.

" Sir, I have tried to answer that question as best as I can. The interpretation that is sought to be put on the section may create a prepetual deadlock between the Council and the Governor. If a Bill is again and again returned by the Governor to the Council so that it may send it back to the Governor again and again, it would mean a perpetual deadlock. The object of interpretation should not be to create perpetual deadlocks but to effect a proper working of the Statutes. If the Governor's position is accepted, there is no reason why the Bill should not be returned any number of times. I submit the interpretation that is sought to be placed upon section 81-A is unreasonable. If it is accepted, it is likely to lead to absurd results.

" This Council has expressed its opinion more than once. The Select Committee has considered and rejected security. Then the matter came up before the open Council and the Council also rejected it. Now it is brought forward for the fourth time. What is the effect of this ? The Governor who is to exercise this power can almost bully the Council into acceptance of a decision which he has arrived at. Sir, if this is allowed, such liberties as we possess will be curtailed. The power that is vested in the Governor should be exercised in a reasonable way.

" There is another way in which this matter should be looked at."

* The hon. the PRESIDENT :—" Before the hon. Member proceeds further, I wish to know from him what the intention underlying the right to return is. Is it not that the door should be left open for the Governor and the Council to negotiate with each other with a view to bring the Bill to a particular shape ? "

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* Mr. E. SANKARAN UNNI :—" That takes us to the scheme of the Act ?"

* The hon. the PRESIDENT :—" What is the scheme of the Act ? Does it not give room for negotiation between the Council and the Governor?"

* Mr. E. SANKARAN UNNI :—" I do not say that it is not open to the Governor to negotiate. If the interpretation is carried too far, it will lead to absurdity. How long and how often is negotiation permissible ? There is another reason why I say that the interpretation placed upon this section is not reasonable. Of course this section does not say that the Governor shall not return this Bill and there is no actual prohibition."

* The hon. the PRESIDENT :—" Am I to understand the hon. Member as stating that this interpretation is not possible ? "

Mr. E. SANKARAN UNNI :—" I do not say that interpretation is not at all possible, but in the sense of proper interpretation, it is not possible. It is just possible that that interpretation might be placed because there is no actual prohibition. In interpreting statutes of this character what is the rule laid down in the Interpretation Act, section 32 ? That Act seems to give an indication as to the principle of interpretations. Section 32 of the Interpretation Act says :—" Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office as such then unless the contrary intention appears the power may be excercised and the duty shall be performed by the holder for the time being of the office." My submission is there is a contrary intention perfectly discernible in the Government of India Act itself. The rule does not say there should be actual prohibition. What it says is there should not be a contrary intention discernible in the Act. Such an intention could be gathered from a variety of circumstances. Under the section as it stands the Governor has power to withhold assent. Where there is another remedy prescribed in the Act by which the Governor may effectuate his intention it is not the intention of the Statute that he should come back to this Council and ask for reconsideration of its decision again and again.

" Apart from this, the Governor has another remedy in section 72-E of the Government of India Act. This is what it says:—

' Where a Governor's Legislative Council has refused leave to introduce or has failed to pass in a form recommended by the Governor any Bill relating to a reserved subject the Governor may certify that the passage of this Bill is essential for the discharge of his responsibility for the subject and thereupon the Bill shall, notwithstanding that the Council have not consented thereto, be deemed to have passed and shall on signature by the Governor become an Act of the local Legislature in the form of the Bill as originally introduced or proposed to be introduced in the Council or (as the case may be) in the form recommended to the Council by the Governor.' "

* The hon. the PRESIDENT :—" Is it not a case there that the Governor desires that a Bill should take a particular form ? "

* Mr. E. SANKARAN UNNI :—" I submit that he cannot possibly do it for the simple reason that the Governor has no power to initiate a legislation under the Act. So far as I am able to see, the section refers to cases where a Bill has been introduced by the Government and it has not been passed as recommended by the Governor. Now this House has not passed the Act in the form that was recommended by the Governor. I say that section 72-E exactly applies to the present situation, because this is a Bill which the Council has refused to pass in the form in which the Governor has recommended it. Therefore the Governor has power under section 72-E to certify the Bill and that seems to me the most proper method.

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11-30 a.m. "Sir, this is a reserved subject. Therefore in spite of 'the happy family system' it is the duty of the executive half to go on with the legislation. If it finds that it is in disagreement with the Council, it should take the responsibility in its own hands. It must have the courage to take the responsibility in its own hands. If the Governor feels that the decision is wrong, I do not think it is a proper exercise of his power to remit the Bill again for reconsideration. It is an abuse of power to return it. I therefore submit that this motion cannot be put before the Council as we have exhausted our power."

Mr. J. A. SALDANHA :—"It seems to me that the arguments used by my hon. Friend, Mr. Unni are exactly the arguments in support of the Governor to send the Bill. My friend quoted 72-E 'Where a Governor's Legislative Council has refused leave to introduce, or has failed to pass in a form recommended by the Governor . . .' etc. These are the powers which His Excellency should exercise as an extreme measure. His Excellency could have exercised his power by certifying the Bill in the form recommended by him without requiring the Bill to go again to this Council. But His Excellency is not precluded from remitting the Bill."

* The hon. the PRESIDENT :—"I do not think anybody will be justified in discussing whether His Excellency was justified or not justified in returning the Bill. He has done it. The only point for consideration is whether the Council can reconsider the Bill."

Mr. J. A. SALDANHA :—"I say there is no abuse of power."

* The hon. the PRESIDENT :—'We have nothing to do with the point whether he abused or properly used the power. The question is whether the Council can reconsider the Bill."

Mr. J. A. SALDANHA :—"The point is whether it can be reconsidered a second time. That is the point of view my friend expressed. There is nothing in the Act which prevents . . ."

* The hon. the PRESIDENT :—"That was conceded by Mr. Unni himself in the course of his arguments."

Mr. J. A. SALDANHA :—"There is nothing in the Act to prevent the Council from considering it a second time. As a matter of courtesy, it has been sent. We have perfect right to reconsider the Bill. The powers of the Council are ample for considering it a second time. As long as the powers are not limited, I think this Council can exercise all the residuary powers to carry on a discussion or debate."

* The hon. the PRESIDENT :—"I believe that it is the spirit of the rules that the opinion of the Governor on matters reserved for his decision is quite final while the opinion of the President on questions reserved for his consideration is also final. When the Governor has decided that he has got the right to return a Bill, is it justifiable for the President to examine the question ? I want enlightenment on that question."

* Diwan Bahadur ALLADI KRISHNASWAMI AYYAR :—"I submit not for this reason. One authority is not constituted as a kind of appellate authority over the other unless a particular action is altogether outside this section and is ex faci illegal in which case the President may be called upon to say so. Each must respect the sphere of functions of the other. So when a Bill is remitted or returned under the terms of section 81-A and prima facie there is nothing illegal, I submit, Sir, that it would not be right for the President to go into

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the question whether the return of the Bill is right or wrong. It would not be right, if I may say so, that there should be a discussion on the floor of this House or to ask the President to sit like a tribunal, to hear arguments and counter-arguments, the President being called upon to sit in judgment over the order of the Governor. That is why I would not like to embarrass the President by any arguments unless the President would like to hear the members on that subject of the proper interpretation of section 81-A. So far as the relative functions are concerned, that is the view I take of 81-A and that I would submit for the consideration of the President."

* The hon. the PRESIDENT :—" An interpretation is put upon section 81-A by His Excellency the Governor saying that the Council has power to reconsider the matter. Is it open for the President to sit in judgment over that interpretation, unless the interpretation is erroneous on the face of it?"

Mr. SAMI VENKATACHALAM CHETTI :—" I suppose the hon. the Advocate-General said that this is not the place where a discussion should take place and that each should respect the feelings of the other."

* Diwan Bahadur ALLADI KRISHNASWAMI AYYAR :—" I never said that each should respect the feelings of the other."

Mr. SAMI VENKATACHALAM CHETTI :—" May I know if the President is aware that His Excellency the Governor has examined the question from the legal point of view and was satisfied that this section was capable of particular interpretation and on that assurance has remitted the Bill for reconsideration? In the absence of that is it not open to the President to see that the rights and privileges of the House are not encroached upon either by the Governor or the Government?"

* The hon. the PRESIDENT :—" I do concede that there may be cases where the Governor has interpreted a provision, in which it may be necessary for the President to interpret the same provision. But the question is when His Excellency interprets a particular provision in a particular way whether it is open to the President to act as an appellate or revising authority."

Mr. SAMI VENKATACHALAM CHETTI :—" How does the President know that he has examined? He merely did the act of remitting the Bill."

* The hon. the PRESIDENT :—" That is interpretation."

Mr. SAMI VENKATACHALAM CHETTI :—" Granting that was the interpretation and the hon. the President is of the opinion that there was a patent wrong interpretation, will it be open to the hon. the President to take a different view and if the Government object to it is it not encroaching on the privileges of the President?"

* The hon. the PRESIDENT :—" Why I place the limitation is that there may be cases under the rules where power is given exclusively to the President and the Governor may imagine that he has got power as an appellate authority. That is why I place the limitation. Where the interpretation is quite clear, perhaps in the interests of the House the President will have to protect those interests. Unless the meaning is clear from the section that the interpretation is patently wrong, I do not think the President will be justified in going into the involved interpretation. As far as my reading of the situation of other countries is concerned, in all cases where exercise is considered not quite within the law, properly constituted courts are the

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better judges to interpret the law subject to the final decision of the Privy Council, because they are the competent authorities to go into the involved interpretations of law."

Mr. SAMI VENKATACHALAM CHETTI :—" Will not your interpretation go to show that you are also of the opinion that the Governor should not commit the House to a particular view ?"

* The hon. the PRESIDENT :—" I have already stated that according to the spirit of the Act and according to the rules I feel that the scope of interpretation and the functions are so exclusive that one is not placed as a sort of appellate or revising authority over the other. Even as regards questions, resolutions and motions it is distinctly stated that the spheres of interpretation are quite distinct one from the other."

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" Sir, I think the question as to whether when return of a Bill is made by the Governor under this particular section the Council may consider it is especially for you to decide when the return is made. You raised the question, supposing a certain interpretation is put by His Excellency the Governor on section 81-A and by virtue of that interpretation he sends it, whether you should sit as an appellate authority over that interpretation. I think so far as that point is concerned when we raise a question it is not as an appellate authority you sit . . ."

* The hon. the PRESIDENT :—" Even Mr. Unni says he may share that interpretation. In the course of his argument he stated that there is nothing to prohibit such interpretation."

* Mr. E. SANKARAN UNNI :—" My point was that because there was no actual prohibition it cannot be said that there was permission."

* The hon. the PRESIDENT :—" That is why I said that the interpretation should be patent."

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" In raising the question on the floor of the House, it is only inviting your opinion as to whether the Council will be within law to reconsider it. I entirely agree with you that when once the interpretation put upon a section by the Governor is a patent and a possible one it may not be right that the President should give a different interpretation. Whether after all it will come under 81-A is a question that we have to discuss. Under 81-A this is returned. This does not refer to a Bill being returned a second or third time. You refer to the rules wherein it is stated that with regard to motions and resolutions certain functions of the Governor and the President are clearly defined and that the decision of the Governor is final in certain events. There is nothing of that sort here. I do not want to question the power exercised by His Excellency on this matter but I only want to know whether the question of a second return arises especially in view of the fact that on the last occasion when this Bill came on, you put the whole Bill as amended to be passed. I find it so in the proceedings."

* The hon. the PRESIDENT :—" I just now referred to the votes and proceedings that are being circulated. I do not find such a thing in the votes and proceedings. This appeared the very next day. The Secretary says that a correction slip is being issued in regard to the proceedings, so as to bring them into conformity with the votes and proceedings."

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* Diwan Bahadur B. MUNISWAMI NAYUDU :—" In that case I will only read the section : 'Where a Bill has been passed by a local lagislative Council the Governor may instead of declaring that he assents to or withholds his assent from the Bill return the Bill to the Council.' What is it that is being returned for reconsideration ? The Bill submitted was the original Bill passed."

* The hon. the PRESIDENT :—" Those refer to the previous section. It means passed and considered by the local council after return also."

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" I do not know. The sequence of section 81 and 81-A clearly shows that it refers to a Bill which has been passed."

* The hon. the PRESIDENT :—" 81 is the old section and the amendment of 1919 introduced 81-A. The question of returning and reserving came in with the reforms and 81-A was introduced then."

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" 81 will not apply to a case of this sort."

* The hon. the PRESIDENT :—" Suppose he argeed with the amendment under that section ?"

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" I have nothing more to say."

* The hon. the PRESIDENT :—" As the Leader of the opposition wants a ruling from me as to whether the section bears the interpretation that the Council has got the power to reconsider a Bill any number of times, I think, I would be justified in giving my reasons for the conclusion I have arrived at." 11-45 a.m.

* Diwan Bahadur B. MUNISWAMI NAYUDU :—" I do not want it."

Mr. SAMI VENKATACHALAM CHETTI :—" I want it at any rate."

* The hon. the PRESIDENT :—" The power of returning a Bill is quite different from the power of reserving a Bill or giving assent to or withholding assent from a Bill. The main spirit with which a Bill is returned to the Council is to indicate that the Governor is prepared to give his assent if certain amendments are carried. It is a sort of negotiation that goes on between the Governor and the Council and I think it is in the public interests that such negotiations should be made in order that any beneficial measure should become law instead of the same being withheld or refused. Therefore I think that the interpretation that the Governor has got the power of returning a Bill a second time is sound and the wording of section 81 and 81A of the Government of India Act justifies such interpretation. When a Bill is first returned to the Council under section 81-A and the Council reconsiders it, and it goes again to the Governor for consent, the only section that exists in the Act for giving assent is section 81. Under section 81 the wording is 'Where a Bill has been passed by a local Legislative Council' and in section 81-A, it is 'Where a Bill has been passed by a local Legislative Council'. It may be seen that the terms are identical and both must bear the same interpretation. Unless we put an interpretation on the words 'When a Bill has been passed by a local Legislative Council' in section 81 so as to include also cases where a Bill passed was sent back by the Governor,

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assent may not be possible under any other section, and as in section 81 identical terms have been employed, it is my view that the same interpretation should be put on section 81-A as on section 81.

"The Council will now consider the amendment to the Malabar Tenancy Bill."

Mr. Muppil Nayar of Kavalappara :—"Mr. President, Sir, I am sorry I shall have to oppose the amendment. We never wanted any security from the verumpattam tenant. In the Select Committee stage of the Bill, after consulting the janmis of Malabar, it was definitely decided that we will not have any provision for security from the verumpattamdar. While reading through the message one is to carry the impression that it is more or less intended to benefit the janmi but it will only help the kanamdars. They would be able to collect amounts due and pay the dues to the immediate landholder and thus it would be only beneficial to them. And as such I oppose the motion."

* Mr. E. Sankaran Unni :—"Mr. President, Sir, before I speak on the amendment, I may be permitted to offer a personal explanation which is necessitated by the message which His Excellency has been pleased to send this House. It is also relevant because the considerations that induced His Excellency to return the Bill to the Council refer to me in particular. The message reads : 'I have given careful consideration to the report of the discussions in the Legislative Council and to representations that have been made to me by deputations and otherwise in respect of the Malabar Tenancy Bill. While I fully realize the care and attention that has been given to the Bill by the Council, it appears to me that the proviso inserted in clause 13, sub-clause (1) which was opposed by the representatives of the tenants, though supported by the member nominated to represent the janmis (that is myself), imposes a condition on the janmis which would place them at a disadvantage when the fixity of tenure given to the tenants is taken into consideration. I accordingly return under section 81 A (1) of the Government of India Act, the part of the Bill specified below to the Legislative Council for its reconsideration together with the amendment appended, which I recommend.'

"That is a passage which, I submit, casts a reflection on my conduct in this Council. His Excellency seems to think that in opposing security, I have acted against the interests of my constituency, if I may so call it, particularly in asking that the security clauses may be reduced to the smallest limits to which Mr. Muniswami Nayudu's amendments confined them. Sir, I have got certain facts to be placed before the Council which should come to the knowledge of His Excellency the Governor also. When I was nominated as a Member in connexion with this Bill, I may say here for the information of my friends the Government did not extract any sort of promise from me as to the conduct I shall pursue here ; they left me alone. In the discharge of the duties with which I was charged it was absolutely essential—and proper too—that I should be guided in all that I did by the views of the janmis of Malabar. The first thing that I did on my being nominated was to call a large meeting of the janmis. The meeting was held in the residence of my hon. Friend, Muppil Nayar of Kavalappara. That meeting appointed a committee to instruct me in regard to this Bill. From the date the Council took into consideration this question and during the course of the proceedings of the Select Committee and all through the period it was under the consideration of

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this Council, there was a committee of some of the most influential janmis who were almost all of them present in Madras, some of them being almost always witnessing the deliberation of this Council from the President's gallery. I received my instruction from them as to the course I should follow and not one single amendment was moved by me in this House or in the Select Committee which had not received the sanction of almost all the members of the committee who were present here.

"This question came up for consideration in this Council in the shape of an amendment by the hon. Mr. Campbell. Then I got instructions from gentlemen who were present here to oppose the security and support the summary sections. That was exactly what I did. The Bill was passed and sent to the Governor for his assent. We approached His Excellency Sir Norman Marjoribanks with a long memorial. Not one single word was said in that memorial regarding security. At the suggestion of Sir Norman Marjoribanks, we submitted a long list of 18 amendments. None of them related to security at all. I now come to the last occasion. On this occasion I may say that I had instructions from no less a person than the Raja of Kollengode. He was then at Bombay and his letter, dated the 18th December 1929, was received by me here on the 20th morning, the Bill being taken into consideration on the 20th and adjourned to the 21st January 1930. I shall, with your permission read a portion of that letter."

Mr. K. Krishnan:—"Sir, May I ask whether the hon. Member is in order in reading out private correspondence which passed between him and another gentleman?"

* The hon. the President:—"I understand Mr. Sankaran Unni wants to explain why he voted for the omission of the security sections as well as against the insertion of the proviso."

Mr. J. A. Saldanha:—"How does it concern the point at issue?"

* The hon. the President:—"He wants to explain the attitude which he took when the Bill was lately considered because he takes that the message is a reflection upon his conduct as a Member of this Council."

Mr. J. A. Saldanha:—"May I inquire whether he could not seek the columns of the newspapers wherein he may explain his position to all including the Members of this Council?"

* The hon. the President:—"I think the House will certainly show great indulgence to any Member when his conduct in the Council as a Member is reflected upon adversely to himself. He is trying to justify his vote and his conduct in the House. I think the House will be justified in showing due indulgence to him."

* Mr. E. Sankaran Unni:—"I am extremely grateful to you, Sir, for your ruling. I think that hon. Members of this House should only be glad to know the reason why I had acted in the manner I did. Mr. Saldanha had long been a Member of this House and he ought to recognize the value of their privilege; but he has chosen to view it otherwise. Now coming to the letter, this is how it reads; the letter is dated Bombay the 18th January 1930 and received by me on the morning of the 20th January 1930:—

'You have of course to oppose amendments relating to the summary sections which are more important to us than security. You may point out that in kanam lands, we have enough and more of security and still we could not collect rents without much arrears. You may say the result will be the same with regard to verumpattam lands. So make a fighting speech and oppose the Government amendments.'

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"This was exactly what I did. I preferred clause 13 to security. Government interpreted the message as meaning that clause 13 must disappear in any event. That is the reason why the Bill has come back. Instead of asking for restoration of clause 13 suitably amended, the Governor is again asking for security.

12 noon. "I think I did make a fighting speech too, and I also opposed this particular amendment. Subsequent to the passing of this Act, we submitted again a memorandum to His Excellency the Governor, in which we did not ask for security at all. It was a memorandum to which my hon. Colleague, the Muppil Nayar of Kavalappara, the Raja of Kollengode, the third Raja of Calicut, and a number of the most prominent janmis were parties. I do not think I shall read from that memorial *in extenso*. What we really wanted was the summary procedure that has been taken away. (Mr. K. P. Raman Menon: Did you not say anything about security?) I shall come to it presently. We said in paragraph 2 of that memorial as follows:—

'In their minutes of dissent to the Select Committee's Report your predecessor's two colleagues Sir Krishnan Nayar and Mr. Campbell insisted on the importance of the provision requiring the cultivating verumpattamdar to pay one year's rent in advance as security, in accordance with the practice generally prevailing at present; and Your Excellency's predecessor accordingly made the inclusion of such a provision his principal recommendation in remitting the Bill. The Legislative Council has refused to require such security from any cultivating tenant who has held for three years without it. We submit that as the Bill finally stands the janmis are deprived of the last trace of a shadow of compensation for the confiscation of their rights.'

"Then in paragraph 4 of the memorial we say—

'We may be permitted to sum up our reasons very briefly. The Government of Madras disallowed Sir Krishnan Nayar's Bill in 1926 mainly for the reason that they considered it just that if the rights of the janmis were taken away substantially, the janmis should be given reasonable compensation. The Raghaviah Committee was instructed in that sense, and the original of the Bill now in question purported to afford some compensation though it admittedly confiscated more rights than Sir Krishnan Nayar's Bill. The compensation offered consisted of rights to—(1) Advance of rent, (2) renewal fees pitched intentionally high, (3) resumption for personal use and (4) summary process for collection of arrears of rent.'

"Mark the words 'summary process for collection of arrears of rent.' 'We have already contended in several memorials and interviews that these (security provisions) are illusory and in no true sense compensatory; we wanted especially (4) (summary procedure) and that has been definitely vetoed by Government." In fact, our insistence has all along been on the retention of the summary procedure and giving up of the security because we know it is a perfectly useless thing. It is a thing that is calculated to ensure nothing either to protect us or compensate us in any manner. We were not anxious, as some Malabar gentlemen have always been, to introduce the security clause in this Bill.

"Sir, after this message of His Excellency appeared in print, I took the trouble to write to some of the most leading janmis of Malabar who were concerned in this matter. I especially request the attention of the House to a few of the replies I have received, because this is a thing which happened after His Excellency's message was published. This is the reply I got from the third Raja of Calicut in his letter dated 27th February 1930 from Kottakal:

'From His Excellency's message to the Council, I see His Excellency has misunderstood your position. The view which you have presented to the Council in regard to the security clauses was and is the view of the janmis. It is a matter of gratification to me that in all that

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you have said and done in the Council regarding the Tenancy Bill you have acted on the advice and instructions of the leading janmis of Malabar. I hope you will make this clear to the Council and the Government. What we want is summary procedure, and not security.'

"Another letter is from the Elaya Thirumalpad of Nilambur, a leading janmi who has got 1·15 lakhs of paras of verumpattam, and it is a short letter. He says:

'I have read His Excellency's message returning the Tenancy Bill to the Council again. The language of the message seems to imply that in opposing "security" you were not representing the real interests of the janmis. The suggestion is, of course, unfounded. You acted on the advice of the leading janmis who were present in Madras when the Bill was under discussion. We deliberately decided to oppose "security" as it is sure to be used by karnavans for encumbering family properties. What we really want is a cheap and expeditious method of collecting rent. Nilambur has nearly three-quarter lakh as verumpattam. We have taken security from a few tenants. It is my experience that security does not facilitate the collection of rent. It is a remedy which injures the landlord and tenant impartially. I am fully in accord with the views expressed in your speech on this topic in the Council. I shall be glad if you can manage to get back the summary clauses. Please try.'

"I have only two more letters which I may be permitted to read. The following is a translation of the letter in Malayalam from Poomulli Manakkal, Mr. Cheria Vasudevan Nambudripad of Peringode:

'I have seen in the *Hindu* received here to-day the message accompanying the Malabar Tenancy Bill which has been returned by His Excellency the Governor to the Council. I am very sorry to see that therein it is said that your support of Mr. Muniswami Nayudu's amendment was an act against the interest of the janmis. It will be admitted by all that you have done nothing in connexion with the Tenancy Bill except in accordance with the views of the leading janmis. And when the Bill was actually under discussion you were specially asked to say that security was not required and that summary procedure would do. The janmis who have large verumpattam do not want security. My family has a verumpattam of 11,500 and about 2,000 verumpattam tenants. There is munpattam (advance rent) of only about 35,000. The rent of these who have given security is nil, and it was not more easily collected than the rent of those who have not given security. What the janmi requires is the summary procedure that was in the Bill. Its deletion is likely to cause serious injury to the janmis. In my opinion, one year's munpattam has not been found to facilitate the collection of rent in any way. No good will come out of munpattam. It will only add to the indebtedness of the family. So I specially request you to make an effort to get rid of the security clause and to get the provision for summary procedure reintroduced.'

"Then there is a last letter which I will read with very great pleasure. It comes from a person who is particularly well known to most of the Members of this House, my friend Mr. Prabhakaran Tampan. I am particularly proud to have that letter because I value his commendation greatly. He says:

'You seem to be getting fidgety over the reference to your attitude in the message sent by His Excellency the Governor to the Council in remitting the Malabar Tenancy Bill. I need hardly tell you that, were I in the Council, I should have done precisely what you did. I assure you, if indeed such an assurance is necessary, that you more than justified your nomination, acting as you did, in most cases, according to our instructions and after full discussion with us. As regards the new amendment, I am of opinion that you need not vote either way. That is a very small matter when compared to the large confiscatory provisions contained in the Bill, and I would let it take its own shape. You had better watch the proceedings and intervene only when and if any explanation has to be made. Of course, this is only a suggestion and I leave it to you to decide for yourself.'

"Now I am extremely grateful to this House for giving me this opportunity for making it plain to the House and to those others whom it may concern that I have acted always in the interest of the janmis. It is possible that His Excellency believes that what the janmis consider to be beneficial to them is not really in their interest. It is possible that His Excellency in his wisdom and knowledge thinks that the janmis do not know what is good for

them. But I respectfully submit that it is better to ask a man whether he wants a thing before you give it to him. You may be assuming too much responsibility, if you act on the assumption that the janmis of Malabar do not know their own minds. I am grateful to the House for the opportunity given to me for making this explanation.

" With regard to the amendment itself, I propose to take more or less the course recommended by Mr. Tampan. However, I desire to point out that the attitude of the Government in regard to this matter has not been consistent throughout. When this matter was under the consideration of the House in the second reading stage, Mr. Madhavan Nayar, who was then here at the time, moved an amendment that only half-year's verumpattam need be taken as security. The Government were prepared to accept the proposal. Now the Government are for taking one year's rent in advance or obtaining security to cover it. Our attitude in this matter has always been consistent. As I have said, security or advance payment for one year is of very little value to us. What actually matters for the collection of rent is the summary procedure. I cannot repeat it too often that we are not prepared to accept the security provision in the place of the summary procedure that was found in the original Bill. I consider that the security clauses will injure the janmis and the actual cultivating tenant alike. I may add that, as pointed out by my hon. Friend, the Muppil Nayar of Kavalappara, the Bill has not been returned in the interest of the janmis. If the Government were anxious to safeguard our interests, they would have acceded to our prayer for summary procedure. I do not desire to add anything to what I have already stated in regard to this matter. All that I had to say in regard to security I have said on the last occasion."

*Mr. A. Achutan :—" Sir, I am not going to make a fighting speech. That belongs to the province of my hon. expert Friend, the janmi representative. He is of the type described by the poet :—

' Even though vanquished he will argue still.'

" But I am for peaceful and quiet methods by which I have often gained victories.

' Peace has her victories

More renowned than those of war.'

" Sir, my hon. Friend, Mr. Sankaran Unni, submitted to this House that he is against the security section. I am afraid he and his janmi friends are talking in that respect with their tongues in their cheeks, and they are saying what they do not mean. Their only object in saying so is to see that this legislation is wrecked *in toto*. That is the object with which they opposed the provisions of this Bill, and that is the object with which they are opposing also this security provision.

" Now, Sir, this Malabar Tenancy Bill, as you all know, has been a most ill-fated measure, because it has been dragging on at each remove a lengthening chain. My attitude towards this legislation has all along been one of least resistance. I always preferred to choose the lesser of the two evils. If this security provision is going to be maintained, it must be reckoned as an evil. But if this legislation as a whole is going to be wrecked on the rock of security it will be a greater evil and nothing short of a disaster to the tenants of Malabar.

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"Therefore I prefer the lesser of these two evils and propose to vote for the Government amendment wholesale. I want to avoid the disaster threatening Malabar if this legislation is not passed. Sir, the persistence with which the Government have been pressing this provision time and again only goes to show that they are very anxious to maintain the scales even between the tenants and the janmis according to their lights. There is abundant evidence in the provisions of the Bill now under consideration to show that the Government have been trying to respect the sentiments of both the janmis and the tenants in Malabar. For one thing they have been paying more than respect to the sentiments of the janmis and less than respect to the sentiments of the tenants. I believe it was Dr. Tagore who said in one of his books that you should not stoop too low, that respect duly given and taken will adjust the account between parties and that veneration is over-payment. Speaking in the language of Dr. Tagore I may say that the Government in this matter have been paying veneration to the sentiments of the janmis while they have been paying less than respect to the sentiments of the tenants—in one case overpayment and in the other case underpayment. However, I have no quarrel with the Government for this differential treatment; all I say is that the tenants of Malabar will be satisfied and more than satisfied if this legislation is passed into law as early as possible. Even without the security provisions, I may say, there are ample safeguards for the protection of the janmis' rights in this legislation. Every janmi ought to feel that his rights are secure. He ought to feel as though he was safely lodged in as this legislation is something like Noah's Ark. There is a provision for forfeiture of tenancy, for non-payment of rent and there is a provision for making the janmis' dues a charge upon the tenants' holdings. There are many similar provisions in all the chapters. In the face of these numerous protective provisions in the bill for the janmi, this security provision is one too many. Further, the verumpattamdars are entitled to be treated as the pet children of the legislature. You know, Sir, there were committees and commissions appointed by the Government composed of officials and non-officials to examine this question and report upon the feasibility or otherwise of a tenancy legislation for Malabar. All these agencies without a single exception have recommended the grant of full occupancy right to the verumpattamdar. But what does this legislation give the verumpattamdar? It gives only a qualified fixity of tenure hedged in with limitations. This is due to the compensation theory of which no whisper was heard in the history of legislation in Malabar. This compensation theory was trotted out first on the floor of the House from the Government benches a theory which has since. . ." 12-15 p.m.

The hon. the PRESIDENT :—"I think the hon. Member may leave the compensation theory alone for the present. We have had enough of it and it is not relevant to the question now under consideration."

* Mr. A. ACHUTAN :—"So far as the tenants are concerned, they have got fixity of tenure at a great sacrifice. In other parts of the country land legislation is founded upon principle of the landlord and tenant being co-partners in the common endeavour for land improvement and land enjoyment. But our tenancy legislation is founded on the conception of what are known as bought-and-sold in mercantile transactions. Every right given to the tenant is paid for and is to be purchased in the dearest market and every privilege is carefully weighed in nice scale and is worth its weight in gold.

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Your pound of flesh and nothing less is what is demanded of the tenant in return for this qualified fixity given to him. If in spite of these provisions, the tenants of Malabar are anxious to have this legislation passed at an early date, it is because, they hope, perhaps against hope, that their present material condition will, to some extent, be altered for the better. That is the hope that they entertain. Although there are harsh provisions in the Bill they welcome it expecting that some betterment will be introduced in their social and economic conditions. Their present economic condition I cannot describe in better terms than those of the poet who said of the tenantry of England in his time !

"There was a time where England's griefs began,
When every rood of ground maintained its man,
For him light labour spread its wholesome store,
Just gave what life required, but gave no more,
His best companions innocence and health,
His best riches, ignorance of wealth.'

"These poetic lines portray a true picture of a verumpattamdar of Malabar. Finally, my humble request to the House is not to drive the poor tenants of Malabar to exclaim in blank despair: 'Oh, Lord, save us from our friends in the Council.' I therefore request the House to facilitate the passage of this Bill into law as otherwise, it will be a calamity not only to the tenants but also to the Government since, so much of money and labour and trouble will be wasted in vain."

Mr. J. A. SALDANHA :—"Mr. President, we have heard very eloquent speeches from the other side. It is hardly necessary for me to assert that I entirely agree with the sentiments expressed by the hon. Member from Malabar who has just spoken. I may point out, Sir, that this Bill does not err on the side of generosity to the tenants, kanamdars or other classes of tenants. I will not repeat the arguments advanced by my hon. Friend from Cannanore, but will make only one remark and that is that this legislation confers on the tenant only qualified fixity of tenure and that a verumpattamdar gets it only at a great sacrifice. It is not a question of compensation.

"As regards the other point, namely summary procedure, about which my hon. Friend Mr. Unni is enthusiastic, I may draw the attention of the House to a Bill which is being introduced in the Travancore Legislative Council where they have done away with all evictions and summary procedure."

* The hon. the PRESIDENT :—"I am not able to understand how it is relevant to the question of omitting the proviso."

Mr. J. A. SALDANHA :—"There are two alternatives put before us by Mr. Unni."

* The hon. the PRESIDENT :—"The hon. Member is requested to confine his remarks to the proviso."

Mr. J. A. SALDANHA :—"The proviso is quite fair and ought to be accepted. But I think the condition of three years occupation is unnecessary. It is not at all in the right direction. My hon. Friend the leader of the Justice party sometimes comes forward with amendments which very often

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remind us of Solomon coming to justice. But in this case he has not exercised the wisdom of Solomon. I think it is a very unwise amendment to be carried by this House. Where is the necessity to fix the three years' period? Why not make it six years as suggested by Sir Krishnan Nayar? Why not have it as 12 or 16 years? The principle is this; that when these verumpattamdars show some earnestness about getting the right of fixity of tenure, they ought readily to give some sort of security to the landlord that they will pay the rent regularly. If they are unable to pay one year's rent, surely they do not deserve the favour. Under section 46 of the Estates Land Act, a tenant has to pay an advance of one year's rent if he wants fixity of tenure. As that is the case in that Act, why not the verumpattamdars give one year's rent in this case and secure this right of fixity of tenure.

"Sir, these verumpattam tenants have been in possession of the lands and they have been in occupation of them for the last ten years, and in some cases for a period extending over ten years. But that does not mean that merely on that account they should be given fixity of tenure even though they may not deserve it. So I would insist that this provision which has been recommended by His Excellency the Governor should be carried." 12-30 p.m.

* Diwan Bahadur B. Muniswami Nayudu:—"Sir, I am sorry that the Bill has been returned to the Council a second time. The consideration which induced His Excellency to take that course seems to be that the amendment which this Council passed was one prejudicial to the interests of janmis. For the message says 'While I fully realize the care and attention that has been given to the Bill by the Council, it appears to me that the proviso inserted in clause 13, sub-clause (1), which was opposed by the representatives of the tenants though supported by the Member nominated to represent the janmis, imposes a condition on the janmis which would place them at a disadvantage when the fixity of tenure given to the tenants is taken into consideration.'

"Sir, I fear that there is not a correct grasp of the situation by His Excellency the Governor. What the Bill aims to give the kanamdar is permanency for his kanam. It also gives occupancy rights to the actual cultivator. What the janmis and the Government opposed all along was to give the kanamdar fixity of tenure. Now what the present clause professes to do is to protect the interests of the cultivators. Now if His Excellency meant by the term 'tenants' the kanamdars then he is right in stating that the amendment was opposed by the tenants. But, if he meant by the term 'tenant' the cultivating verumpattamdar then he is mistaken in thinking that the tenants' reperesentatives opposed the amendment.

"So far as the security clause is concerned, it was rejected by the Select Committee, and when the hon. the Revenue Member wanted to introduce it once again in the Council it was rejected by the Council. When a poll was taken, out of 82 members present then in the Council, 24 voted for the introduction and 48 against it and ten remained neutral. Of the 24 who voted for the introduction of the security clause we might ignore 16 members as they constitute the Government members and officers of the department. And if we look into the rest closely we see that Messrs. Madhavan Nayar, K. P. Raman Menon, Gopala Menon and Saldanha are included in that. The first of them is a representative of the kanam tenant, the second is the special member to represent the same cause and the third represents a commercial interest and with regard to Mr. Saldanha I shall deal with him later on. (Laughter.) Among those who voted against the security clause were Mr. Nambudripad,

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a janmi, Mr. Sankaran Unni, who has been nominated to represent the janmis, Mr. K. Krishnan and Mr. Achutan. Mr. Krishnan was nominated to represent the cultivating class in the Raghaviah Committee, and Mr. Achutan is nominated as expert Member for the cultivators. As regards both Messrs. Krishnan and Achutan, they voted against the security clause in the first instance. Then as regards Messrs. Uppi Sahib and Schamnad, they also voted against the section. So that you find that the kanamdars were for the security. The janmi representatives were against security being taken. My Friend Mr. Thampan was the elected representative in this Council, when Mr. Krishnan Nayar's Bill was discussed. He was always for giving the actual cultivator occupancy and did not ask for any security. When the Bill was returned for the first time, the question again came before the Council. The question that was taken up was whether the security clause should be inserted and a vote was taken, as a result of which 35 voted for, and 25 against it, in a total of 62 members. Mr. K. Krishnan and Mr. Achutan then voted for the motion. They did so not because they were in favour of it but because they were afraid that the Governor will not give his assent to the Bill otherwise. Mr. Krishnan said so in express terms.

"Then, Sir, came my amendment adding the proviso (now proposed to be deleted) which provided that those who have been in continuous possession of the land for more than three years should be exempted from it. Mr. Krishnan voted in favour of it. My Friend, Mr. Wood, and the members of his party also voted for my amendment. Now to-day the position taken up by the nominated Member for the janmi is that the security is not in the interests of the janmis, and the elected Member of the janmis is also of the same opinion. Left to myself I would still oppose the motion now under consideration. But I have been in touch with my Malabar friends for the last several days and all of them are anxious that this Bill should be passed, even with the amendment proposed by the Governor. If we do not pass this motion it is feared that His Excellency the Governor may not give his assent to the Bill, and as we are on the eve of the general election the Council will be dissolved and there will be no opportunity for us to negotiate with His Excellency the Governor. Therefore I do not propose to oppose the motion.

"Then as regards Mr. Saldanha, he seems to think that he is the only wise man and that all others are not gifted with wisdom. (Laughter.) He believes that the kanamdars are the only people who really require protection, and he is specially careful to see that no occupancy right is given to the cultivating verumpattamdar. In that respect I have to differ from him. I am not a Malabari, and I can view things from an impartial point of view, and I feel nobody will gainsay the fact that it is but legitimate that the cultivating verumpattamdar should be given the fruits of his labour consistently with the interests of the janmis. Finally, I wish to say only this, that for the reasons stated above I do not wish to oppose the motion."

* The hon. Mr. A. Y. G. Campbell:—"Sir, it is perhaps unnecessary for me to take much of the time of the House in repeating the arguments used in favour of the motion. I do not propose to follow Mr. Sankaran Unni in his personal explanation with reference to His Excellency's memorandum explaining why he has returned this clause to the Council for reconsideration; but it seems clear from the memorandum that His Excellency has been given the impression that the retention of this proviso in the Bill is prejudicial to the interests of the janmis.

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"The argument is now put forward, for the first time I believe, that there is a danger that karnavans will abuse this power of demanding security and thereby encumber estates by demanding security from a large number of tenants. I submit it is difficult to see how the taking of security would be a serious danger to an estate. The security will have to be repaid only when the cultivating verumpattamdar is to quit his land; that is to say, ordinarily when he fails to pay the rent, and proceedings are taken against him, the security would then be adjusted towards the rent due. I fail, therefore, to see how the future janmi would be put to financial embarrassment on account of the action taken by his predecessor in this respect.

"I do not think that this clause will affect harshly those tenants who have not already given security. It may be true that in many cases no security has been demanded till now; but at present the landlord has got the arbitrary power of ejection; the Government and this House for certain reasons, which I need not explain, consider that it is necessary to limit the landlord's power over his tenants in certain respects but, Sir, we do not want to restrict his powers more than is necessary for the purpose which we have in view. It is an ordinary feature in leases now that security may be demanded by landlords from tenants, and if we give fixity of tenure to the tenant, it does not necessarily follow that we must take away the landlord's right to demand security. It may be that in some cases no security was demanded from the tenant till now because he was liable to summary eviction if he failed to pay his rent; but this liability has not been restricted. An argument advanced in favour of the proviso is that the tenant who has in the past proved to be a good tenant paying his rent regularly should be absolved from liability to give security for his rent in future. I would however point out that after all a tenant's rights in his holding are, under section 39 of the Bill, to be heritable and alienable. The exemption from liability to pay security would therefore be transferable with the land; but it does not follow that, because it is unnecessary to take security from a tenant *A* who has been a good tenant in the past, it will not be necessary or desirable for the landlord to take security from a person *B* to whom the tenant's rights in the holding may pass by inheritance or sale.

"I submit, Sir, that it is desirable that this proviso should be deleted."

* The hon. the PRESIDENT :—"The question is in sub-clause (1), clause 13, 12-45 p.m.
the proviso be omitted."

The motion was declared carried.

A poll was demanded and the House divided thus :

Ayes.

1. The hon. Khan Bahadur Sir Mahomed Usman Sahib Bahadur.
2. " Mr. A. Y. G. Campbell.
3. " Mr. S. Muthiah Mudaliyar.
4. " Dr. P. Subbarayan.
5. Diwan Bahadur Alladi Krishnaswami Ayyar.
6. Mr. Hilton Brown.
7. " A. G. Leach.
8. " J. Gray.
9. " S. V. Ramamurti.
10. " C. B. Cotterell.
11. Syed Tajudin Sahib Bahadur.
12. Rao Sahib R. Srinivasan.
13. Mr. V. I. Muniswami Pillai.
14. " A. B. Shetty.
15. " J. Bheemayya.
16. Rao Sahib P. J. Gnanavaram Pillai.
17. Khan Bahadur Mahmud Schamnad Sahib Bahadur.
18. The Zamindar of Singampatti.
19. Subadar-Major S. A. Nanjappah Bahadur.
20. Mr. T. M. Narayanaswami Pillai.
21. " K. Krishnan.

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Ayes—cont.

22. Mr. N. Siva Raj.
23. ,, M. V. Gangadhara Siva.
24. Rao Sahib L. C. Guruswami.
25. Mr. D. Thomas.
26. ,, S. Venkiah.
27. ,, N. Srinivasa Rao.
28. ,, C. D. Appavu Chettiyar.
29. ,, A. Achutan.
30. Raja of Parlakimedi.
31. Mr. S. N. Dorai Raja.
32. ,, S. Arpudaswami Udayar.
33. ,, V. Ramjee Rao.
34. Rao Bahadur C. Natesa Mudaliyar.
35. Mr. P. T. Rajan.
36. Diwan Bahadur S. Kumaraswami Reddiyar.
37. Mr. T. K. Chidambaranatha Mudaliyar.
38. ,, Ramanath Goenka.
39. ,, K. P. Raman Menon.
40. ,, Khadir Mohideen Sahib.
41. ,, Chavadi K. Subrahmanya Pillai.
42. ,, C. Gopala Menon.
43. ,, T. S. Ramaswami Ayyar.
44. ,, C. E. Wood.
45. ,, F. E. James.
46. ,, A. J. Leech.
47. ,, R. J. C. Robertson.
48. ,, J. A. Saldanha.
49. ,, K. Uppi Sahib.
50. ,, K. V. Krishnaswami Nayakar.
51. ,, V. Ch. John.

Noes.

1. Muppil Nayar of Kavalappara.
2. Mr. E. Sankaran Unni.

Neutral.

1. Mr. P. Booshayya.
2. ,, U. Ramaswami Ayyar.
3. Diwan Bahadur B. Muniswami Nayudu.
4. Mr. A. Ranganadha Mudaliyar.
5. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
6. Mr. Sami Venkatachalam Chetti.
7. ,, M. Balasubrahmanya Mudaliyar.

Ayes 51. *Noes* 2. *Neutral* 7.

The motion was adopted.

(2) A BILL FURTHER TO AMEND THE ANDHRA UNIVERSITY ACT, 1925 (BILL NO. 6 OF 1930).

* The hon. Dr. P. SUBBARAYAN :—"I introduce a Bill[a] further to amend the Andhra University Act, 1925 (Bill No. 6 of 1930) and move that the Bill be taken into consideration."

The hon. Mr. S. MUTHIAH MUDALIYAR :—"I second it."

* Mr. A. RANGANATHA MUDALIYAR :—"May I take it, Sir, that the Bill will not be referred to the Select Committee?"

The hon. the PRESIDENT :—"No."

* Mr. A. RANGANATHA MUDALIYAR :—"In that case, I will just point out that yesterday, when the papers were circulated, it was understood that the Bill would be referred to the Select Committee."

The hon. the PRESIDENT :—"Another notice has been received."

* Mr. A. RANGANATHA MUDALIYAR :—"I would only point out that I was under the impression that the Bill would be considered in detail in the Select Committee. I for one am not ready to proceed with it immediately."

* Mr. C. RAMALINGA REDDI :—"Sir, it would be well to proceed with the Bill straight away because, as has been just pointed out by my hon. Friend the Leader of the Opposition, the Council is fast approaching its end and who knows what might happen? There has already been sufficient delay in the matter. I am sure that so far as the merits of the question are concerned all Members are fully conversant and therefore no harm but much good will

[a] Printed as Appendix XIII at pages 407–411 infra.